

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
STATESBORO DIVISION**

NATHAN L. COOKE,)	
)	
Plaintiff,)	
)	
v.)	
)	CV416-317
HOMER BRYSON, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER

Proceeding *pro se* and *in forma pauperis* (IFP), Nathan L. Cooke has filed this 42 U.S.C. § 1983 against various prison officials and staff involved in his medical care while incarcerated. Docs. 1, 13 & 14. He seeks declaratory and injunctive relief, as well as compensatory damages against defendants, jointly and severally. *Id.* at 12. This is all laid out in his own handwritten statements, in lieu of utilizing the Court's § 1983 civil rights complaint form.

The federal courts have long made available to jails and prisons specific forms for filing habeas and civil rights cases. In *Williams v. Freeseemann*, 2015 WL 6798946 at * 1 n. 4 (S.D. Ga. Oct. 15, 2015), this Court noted that some inmate-litigants bypass those forms in favor of

“home-brewed” filings. Adverse factors can motivate that effort. The Court’s forms force inmates to answer questions aimed at capturing things like 28 U.S.C. § 1915(g) strikes and repeat (*e.g.*, successive writ) habeas filings. *See, e.g., Bright v. Corizon Health Corp.*, 2015 WL 9257155 at * 1 (S.D. Ga. Dec. 18, 2015) (“Bright’s incentive to omit his prior case information is strong because of the § 1915(g) three-strike bar.”). “Home-brewers” typically omit those prophylactic questions from their filings. While Cooke’s handwritten complaint closely tracks the Court’s form, it notably *omits* any mention of these key questions. Plaintiff must complete and sign his form Complaint answering these questions before the Court can screen it.

Another issue arises before the Court can screen plaintiff’s Complaint. A complaint must contain a “short and plain statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2). While detailed factual allegations are not required, “[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007)). In other words, a complaint may not simply allege a wrong has been committed and

demand relief. The pleading standard “demands more than an unadorned, the-defendant-unlawfully-harmed-me accusation[;]” the complaint must contain “sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Id.* (quoting *Twombly*, 550 U.S. at 555, 570). Further, while factual allegations are accepted as true, legal conclusions are not. *Id.* (quoting *Twombly*, 550 U.S. at 555).

The court affords a liberal construction to a *pro se* litigant’s pleadings, holding them to a more lenient standard than those drafted by an attorney. *Haines v. Kerner*, 404 U.S. 519, 520 (1972); *Erickson v. Pardus*, 551 U.S. 89, 94 (2007). This liberal construction does not mean, however, that the court has a duty to re-write the complaint. *Snow v. DirecTV, Inc.*, 450 F.3d 1314, 1320 (11th Cir. 2006). Cooke’s meandering, chronologically incoherent filing must be rewritten to set forth the harm he suffered and the relief he seeks. Amendment is necessary.

Accordingly, plaintiff must submit his Amended Complaint on this Court’s form within 14 days of the date this Order is served. Plaintiff is therefore **ORDERED** to complete the attached **Form to be Used by Prisoners in Filing a Complaint Under the Civil Rights Act, 42 U.S.C. § 1983**, which requires that prisoner plaintiffs disclose:

(1) whether they have brought other federal lawsuits while incarcerated, (2) whether they were allowed to proceed IFP in any such lawsuits, and (3) whether any such suit was dismissed on the ground that it was frivolous, malicious, or failed to state a claim.¹ **Failure to comply with this order within 14 days from the date this Order is served will result in a recommendation that this case be dismissed.**²

Meanwhile, it is time for plaintiff to pay his filing fee. His PLRA paperwork reflects \$0 in average monthly deposits over the six month period prior to the date of his Prison Account Statement. Doc. 12. He


¹ This Court's § 1983 complaint form, which is available to all prisons and jails, *see* <http://www.gasd.uscourts.gov/pdf/prisoner1983.pdf>, compels inmates to disclose prior lawsuits. That data is necessary to enforce the "Three Strikes" rule illuminated in *Owens v. Morales*, 2015 WL 5040245 at * 1 (S.D. Ga. Aug. 25, 2015). *See Boney v. Hickey*, 2014 WL 4103918 at * 4-5 (S.D. Fla. Aug. 15, 2014) (collecting cases that discuss what constitutes a 28 U.S.C. § 1915(g) strike, three of which can lead to a substantial curtailment on an inmate's ability to proceed IFP).

Under the question concerning whether a prisoner plaintiff has brought any lawsuits in federal court dealing with the facts other than those involved in this action, plaintiff must specifically describe *each* such lawsuit, and if there is more than one such lawsuit, the additional lawsuits must be described on another piece of paper.

² To aid Cooke in his endeavor, the Clerk is **DIRECTED** to enclose copies of his Complaint and amendments (docs. 1, 13 & 14). However, plaintiff is warned that his amended complaint will supersede the original complaint and therefore must be complete in itself. Once he files his amended complaint, the prior pleadings will no longer serve any function in the case. *See Malowney v. Fed. Collection Deposit Grp*, 193 F.3d 1342, 1345 n.1 (11th Cir. 1999) ("An amended complaint supersedes an original complaint"); *Varnes v. Local 91, Glass Bottle Blowers Ass'n of U.S. & Canada*, 674 F.2d 1365, 1370 n.6 (11th Cir. 1982) ("As a general rule, an amended complaint supersedes and replaces the original complaint unless the amendment specifically refers to or adopts the earlier pleading").

therefore owes no initial partial filing fee. *See* 28 U.S.C. § 1915(b)(1) (requiring an initial fee assessment “when funds exist,” under a specific 20 percent formula). Plaintiff’s custodian (or designee) shall therefore set aside 20 percent of all future deposits to his account, then forward those funds to the Clerk each time the set aside amount reaches \$10.00, until the balance of the Court’s \$350.00 filing fee has been paid in full.³

SO ORDERED, this 19th day of April, 2019.



CHRISTOPHER L. RAY
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF GEORGIA

³ The Clerk is **DIRECTED** to send this Order to plaintiff’s account custodian immediately, as this payment directive is nondispositive within the meaning of Fed. R. Civ. P. 72(a), so no Rule 72(b) adoption is required. In the event he is transferred to another institution, his present custodian shall forward a copy of this Order and all financial information concerning payment of the filing fee and costs in this case to plaintiff’s new custodian. The balance due from plaintiff shall be collected by the custodian at his next institution in accordance with the terms of the payment directive portion of this Order.